

THE GEORGE JACKSON MURDER CASE-1971-1979

THE BLACK PANTHER  
INTERCOMMUNAL NEWS SERVICE

PUBLISHED BIWEEKLY BY THE BLACK PANTHER PARTY

VOL. XIX NO. 10

MONDAY, OCTOBER 1 — SUNDAY, OCTOBER 14, 1979 25¢



MURDER CHARGE DROPPED AGAINST  
HUEY— JURY VOTES  
11-1 FOR ACQUITTAL

Black Pimp Paid \$10,000  
By Prosecution To Lie



HUEY P. NEWTON talks with the press following the dismissal of all charges against him in the Kathleen Smith murder case. The Black Panther Party president accused the office of Alameda County District Attorney Lowell Jensen of using "criminal tactics" in prosecuting the false case against him. To Huey's right is LUKE ELLIS, one of the three attorneys who defended him in the two-month-long trial.

● SEE PAGES 3, 4, 5, 6 & 7 FOR EXCLUSIVE STORY ON THE TRIAL ●

David G. DuBois: "The White Left Has  
Abandoned The Black Left"

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Jesse Jackson — "Diabolical  
Western Agent"?

PAGE 13

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## Comment

# ENDORSED SPOKESMEN

Since forcing Andrew Young to resign as U.S. ambassador to the United Nations, the Carter administration has sought to clean up its image in the Black community. The "peace missions" of Rev. Jesse Jackson and other Black American "leaders" to the Middle East have played a major role in the White House campaign.

In the excerpts from the following essay written in 1967, Huey P. Newton analyzes the historical role of "endorsed spokesmen" in the Black community.

There has always existed in Black America a fundamental difference over which tactics, from the broad spectrum of alternatives, Black people should employ in their struggle for liberation.

One side contends that Black people are in the peculiar position where, in order to gain acceptance into the "mainstream" of American life, they must employ no tactic that will anger Whites.

On the other side...is the principle that the oppressor has no rights that the oppressed are bound to respect. Blacks who have recommended this response to oppression have been held in fear by the oppressor.

The oppressor always prefers to deal with the less radical, less dangerous spokesmen for his subjects. He would prefer that his subjects had no spokesmen at all, or better yet, he wishes to speak for them himself. Unable to do this practically, he does the next best thing and endorses spokesmen who will allow him to speak through them to the masses....

The oppressor looks upon the endorsed spokesmen as a tool to use against the implacables, to keep them passive.

The endorsed spokesmen look upon the oppressor as a guardian angel.

The implacables view both the oppressor and the endorsed leaders as their deadly enemies. If anything, they have a more profound hatred for the endorsed leaders than they have for the oppressor himself, because the implacables know that they can deal with the oppressor only after they have driven the endorsed spokesmen off the scene....□



JEAN SEBERG

THIS WAS YOUR FBI

## Fallen Comrades



ROBERT LAWRENCE



STEVE BARTHOLOMEW



TOMMY LEWIS

ASSASSINATED AUGUST 25, 1968 LOS ANGELES, CALIFORNIA



SYLVESTER BELL

ASSASSINATED  
AUGUST 15, 1969,  
SAN DIEGO,  
CALIFORNIA

JONATHAN JACKSON

ASSASSINATED  
AUGUST 7, 1970,  
MARIN COUNTY COURTHOUSE  
CALIFORNIA

GEORGE JACKSON

ASSASSINATED  
AUGUST 21, 1971,  
SAN QUENTIN PRISON

LARRY ROBERSON

ASSASSINATED:  
SEPTEMBER 4, 1969  
CHICAGO, ILLINOIS

*"If the penalty for the quest  
for freedom is death, then by  
death we escape to freedom."*

Huey P. Newton



NATHANIEL CLARK

ASSASSINATED:  
SEPTEMBER 12, 1969  
LOS ANGELES,  
CALIFORNIA

## To Our Subscribers

THE BLACK PANTHER Intercommunal News Service is the only newspaper in America that provides detailed and accurate coverage of news and events concerning the Black Panther Party, its leaders and programs. Due to the rapid developments in the trial of Huey P. Newton, we have not published our newspaper since early August, when the trial began. We wanted our subscribers across the country who could not attend the trial to have a thorough description of it.

We apologize for any inconvenience we may have caused you, but hope you will agree with us that the delay was well worth waiting for. All subscriptions will be extended for six weeks.

Thank you for your patience and support.

## YOUR HEALTH

# X-Rays Can Kill

(Chicago, Ill.) - Medical x-rays may be responsible for more than 10,000 needless deaths each year, charges the chairman of the International Commission on Radiological Protection, Dr. Karl Z. Morgan, *Seven Days* magazine reports.

Morgan took part in the U.S. government's top secret Manhattan Project to build the atomic bomb before his 20-year career as a radiation safety advisor to the Atomic Energy Commission.

Last year, Morgan told the House Subcommittee on Health and the Environment that "insofar as unnecessary exposure to ionizing radiation is concerned, the finger of guilt should first be pointed toward the medical professions whence more than 90 per cent of our exposure from man-made sources derives."

In testimony before the same committee, biostatistician Dr. Irwin Bross of Buffalo's Roswell Park Memorial Institute said there "is no longer any scientific question" that doctors "are killing their patients...as a direct consequence of the lie that low-level radiation is harmless."

Bross cited his own analysis of nearly 500 men exposed to repeated low-level x-rays, reported in the February issue of the *American Journal of Public Health*, suggesting a risk of leukemia 10 times above normal.

Bross and an associate recently completed one of the most massive radiation studies to date. Every leukemia case found in New York, Maryland, and Minnesota between 1959 and 1962 was studied. The survey found the incidence of leukemia, heart disease, and genetic damage increased in proportion to exposure to radiation even when the individual exposures took the form of routine medical x-rays.

Bross predicts that many of the 250,000 U.S. women who participated in the government's massive breast x-ray program of the early 1970's will, in 15 to 20 years, "become victims of the worst iatrogenic [doctor-caused] breast cancer epidemic in medical history."

Routine dental x-rays are another source of unnecessary radiation. □

## The Black Panther

PUBLISHED BIWEEKLY BY THE BLACK PANTHER PARTY, 8501 EAST 14TH STREET, OAKLAND, CALIFORNIA 94621, TELEPHONE: 4151 638-0195.

YEARLY DOMESTIC SUBSCRIPTION RATES: \$6.50  
SECOND CLASS POSTAGE PAID AT OAKLAND, CALIFORNIA



PROSTITUTE REFUSES TO TESTIFY, PROSECUTION'S CASE CRUMBLES

# MURDER CHARGE DROPPED AGAINST HUEY—JURY VOTES 11-1 FOR ACQUITTAL

(Oakland, Calif.) - "Now I can live my life until they charge me with something else."

That statement stood out above all others made by Huey P. Newton after all charges in the Kathleen Smith murder case were dismissed against him on September 27.

Two days earlier, Alameda County Superior Court Judge Donald McCullum had declared the second mistrial in the five-year-old case after a jury of eight women and four men deadlocked in a vote of 11-1 for Huey's acquittal.

The first trial in the case ended on March 24 of this year when a jury composed of mostly older White women deadlocked in a vote of 10-2 for the Black Panther Party founder's acquittal.

"This case was not an isolated event," Huey told the press as his jubilant family, Party members and supporters looked on. "The United States government has been trying to put me in jail for 12 years because of my political beliefs."

"This time, the police system charged me with an infamous crime, the murder of a 17-year-old girl. They hoped that just the very charge would turn the community against me. Unfortunately, some people believed that at the beginning of the trial," Huey explained.

"I always thought that was the hardest burden for me to get over. That was one of the reasons I came back to this country from Cuba to prove beyond a reasonable doubt that I was innocent of

the charge," he added.

Huey was very critical of the "criminal tactics" used by Deputy District Attorney Thomas Orloff, who prosecuted the case against him. (Orloff was the prosecutor in the first Smith trial as well as the Preston Callins' assault case last year. On September 29, 1978, Huey was acquitted of beating up Callins, who was jailed for 12 days for refusing to testify in the trial. The jury, however, convicted Huey of being an ex-felon in possession of handguns, and he was sentenced to two years in state prison.)

After spending a month in the county jail, Huey was released on \$50,000 bail pending the outcome of his appeal of the conviction. In 1971, a superior court judge ruled that the BPP president's 1964 felony conviction was un-Constitutional, and the conviction was overturned. From that point on, Huey was not an ex-felon.)

The criminal tactics used by Orloff centered on the false testimony of a Black pimp and drug dealer named Charles Lee Buie and a Black prostitute named Rapahelle Gary, a.k.a. Crystal Grey. Both testified that they saw Huey shoot Kathleen Smith, a 17-year-old Black prostitute, on an Oakland street corner on August 6, 1974.

Huey's astute defense team, composed of attorneys Tony Serra, Luke Ellis and Steven Teich, argued throughout the two-month-long trial that the prosecution paid Buie and Grey to lie.



"The case against me has as much substance as my invisible dog, Tom," said HUEY, shown leaving the Alameda County Courthouse. The BPP leader's dog was named for Deputy District Attorney Thomas Orloff, who prosecuted the false murder case against Huey.

Buie's payment was in two parts: the over \$9,000 he received in a five-month period from the federal Witness Protection Program, and the failure of the district attorney's office to prosecute him for Smith's murder. Aneyewitness who testified in the first trial said that Buie was Smith's killer.

Grey's payment was the agreement of the district attorney's office not to prosecute her for being an accessory to murder.

The cunning Black prostitute has never been charged for her confessed participation in the January, 1978, killing of a Black drug dealer. Grey's lesbian lover and pimp of 10 years, Mozelle Mitchell, used a gun handed to her by Grey to kill the man after he had quarreled with the two women over a drug transaction.

Under California law, Grey is an accessory to murder since she admitted that the gun belonged to her.

In an effort to prevent Mitchell from being prosecuted, Grey told police she committed the murder. The truth came to light when she failed a lie detector test given to her.

The 35-year-old Black prostitute has never been charged with giving the false statement to police that she killed the drug dealer. In addition, three out of four criminal charges made against her in

the last two years were never brought to trial.

During a hearing held in early August prior to jury selection, the defense subpoenaed Superior Court Judge Stanley Golde and Deputy D.A. Alex Selvin to testify in court. Gold was the judge in Mitchell's case and Selvin the prosecutor.

The defense had secured documents showing that Mitchell was "sentenced" to 0 to 60 days for the 1978 murder. Huey's attorneys argued that Mitchell was given a deal in order to guarantee Grey's testimony against Huey.

Both Golde and Selvin denied that such a deal had been made.

## UPROAR

The first trial in the Smith case was thrown into an uproar when Michelle Yvette Jenkins, a 21-year-old Black prostitute who first testified for the prosecution, returned to the stand as a defense witness.

She accused the district attorney's office and the Oakland Police Department of forcing her to lie against Huey in naming him as her girlfriend's killer.

When Jenkins was subpoenaed by the prosecution as a witness in the second trial, she refused to testify, invoking her Constitutional right against self-incrimination.



LUKE ELLIS (left), STEVE TEICH (center, inset) and TONY SERRA comprised Huey's legal defense team. Above, Ellis and Serra discuss payoffs made to Charles Buie.

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# MURDER CHARGE DROPPED AGAINST HUEY—

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Judge McCullum, who is Black, (Huey described him as "the fairest judge I have ever had"), agreed with Jenkins that anything she might say could leave her open to a perjury charge and excused her as an "unavailable witness."

Jenkins was not the only person present on the corner of 29th Street and San Pablo Avenue on August 6, 1974, who denied that Huey shot Smith. Chellie Ruth Lewis, a 26-year-old Black prostitute who was working on the corner at the time, testified that Huey was not the killer.

Tony Serra asked Huey to stand up and asked Lewis, "Is my client the person you saw shoot Kathleen Smith?" Lewis firmly replied, "No."

The defense accused Orloff and the entire district attorney's office of scandalous "prosecutorial misconduct."

"The case against Mr. Newton is entirely built on the legal bribery of prosecution witnesses," Serra emphasized to the jury in his opening statement.

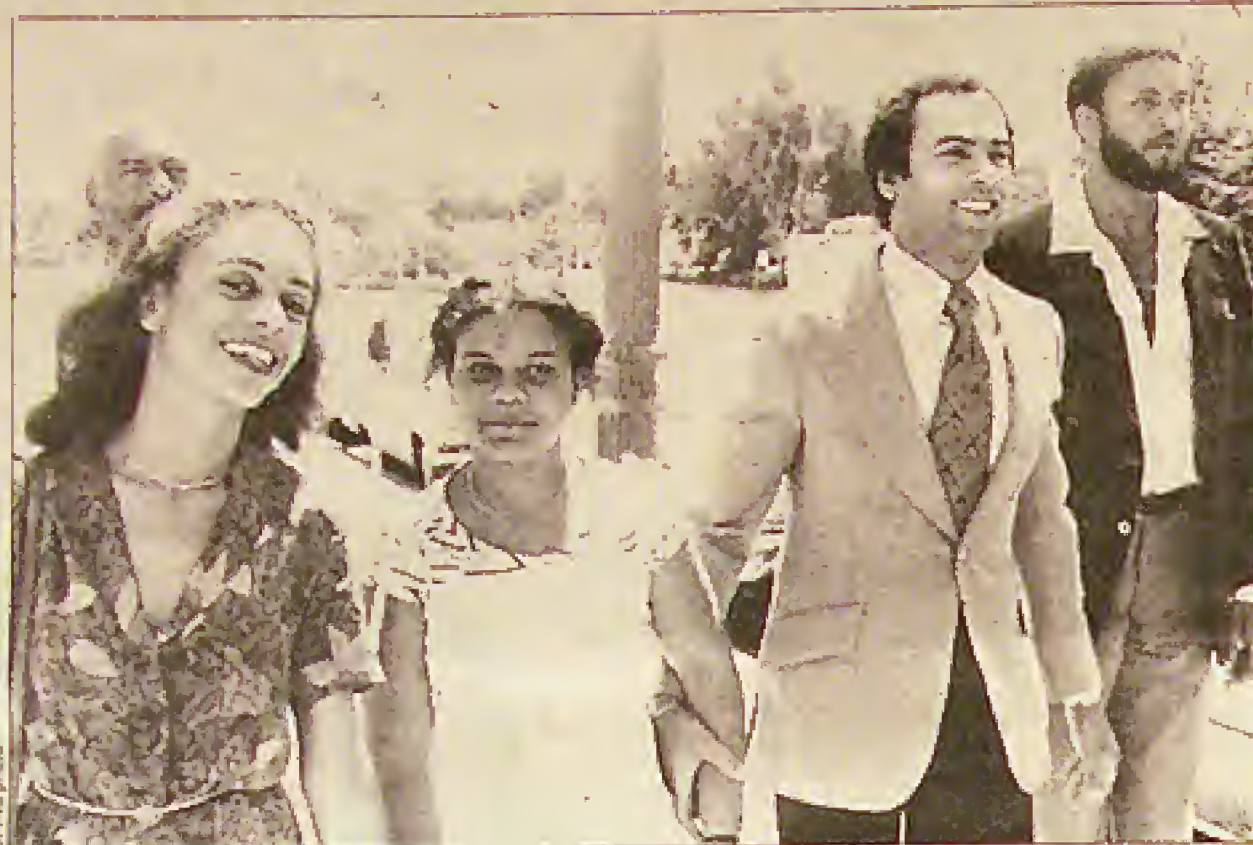
"In August, 1974, Huey P. Newton was the acknowledged leader of Black and poor people in the United States. He was an esteemed and articulate public figure, a symbol all over the world of freedom from oppression," Serra eloquently continued.

"There are those in the American government who fear Huey P. Newton because he continues to raise his hand against oppression. Those who fear him have used the oppressed people of this society, the citizenry of 29th and San Pablo — the prostitutes and the pimps — to get Huey P. Newton at any cost.

"They don't have him yet and they will stop at nothing to get him!" Serra declared as the packed courtroom broke into cheers and applause.

Vividly underscoring the total fabrication of the prosecution's case against Huey, Serra showed the jury a large diagram which depicted the locations of Buie and the eight prostitutes who were on the corner of 29th and San Pablo when Smith was killed.

Each of the "eyewitnesses," Serra explained to the jury, gave police a different description of the killer and the clothes he was wearing. Some said he was dark complexioned, while others said



HUEY P. NEWTON and his wife GWEN leave court hearing with their daughter JESSICA (center).

he was light complexioned.

One said his hair was "slicked back." Buie claimed the killer had a large "wake up" Afro. Jenkins said one half of his hair was braided. One prostitute said the killer's hair was processed and that he had a goatee.

Later in the trial, when Buie was on the witness stand, Serra produced a picture of the Black street hustler taken in the fall of 1974. His hair was straight and he had a goatee.

Testimony in Huey's retrial did not begin until August 31 following 13 tedious days of jury selection. Prior to jury selection, the trial was delayed one week because of the alleged unavailability of a judge. Another week was taken up in important defense motions.

A federal marshal and a U.S. attorney in the northern California office of the Justice Department were subpoenaed to testify on August 10, prior to jury selection, concerning payoffs made to Charles Buie as a participant in the feder-

al Witness Protection Program.

Huey's attorneys did not receive all of the information they had requested concerning benefits received by the 26-year-old Black drug dealer. So damaging to the prosecution's case, however, was the discovery that Buie had received over \$9,000 during a five-month period this year that Orloff abruptly announced two weeks later that Buie was no longer a participant in the Witness Protection Program.

The defense team constructed a strong case to discredit Buie as a witness against Huey. "Here is a man who is a liar and a cheat, who commits most of his crimes against his loved ones and his friends," Serra said in his opening statement.

Less than a week before the first trial began on February 28 of this year, Orloff announced that Buie was an eyewitness against Huey and that the Black pimp had been placed in the Witness Protection Program. This pro-

gram is usually reserved for people who are given a new identity and a new location in exchange for testifying against members of organized crime.

On the witness stand in the first trial, Buie admitted that he was on the corner of 29th and San Pablo selling marijuana to prostitutes on August 6, 1974, when Smith was killed.

Buie claimed Huey committed the crime, but Larry Henson, a BPP member, testified in the first trial that he saw Buie gun the young Black woman down after slapping her during an argument.

The defense maintained that Buie had falsely fingered Huey as the killer over the last five years to protect himself from prosecution.

Taking the witness stand on August 31, Buie persisted in his lie that Huey killed Smith. He admitted that he was no longer a participant in the Witness Protection Program but hoped to "get back on it" after the trial.

Under tough cross-examination by Serra, Buie arrogantly insisted that the over \$9,000 he received from the program between February and July, 1979, did not amount to benefits but was "subsistence" for him, his wife and child.

The average Black worker in America does not earn \$9,000 in one year.

When questioned about a court hearing in which he pretended to be deaf, Buie denied the incident despite the existence of the report by his former probation officer.

Seeking to prove to the jury that Buie is a compulsive liar and a police snitch, Serra read a statement Buie once gave to police after he had been arrested for selling illegally obtained goods.

While working as an apartment manager, Buie used a hardware store credit card possessed by the apartment owner in order to buy over \$500 worth of goods which he later sold for his own profit.

When arrested by police, Buie concocted the story that a man named "Jackie" had talked him into illegally using the credit card. Police, however, produced the receipts from the purchases, all of which had Buie's signature.

Asked by Serra why he had sought to implicate

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# MURDER CHARGE DROPPED AGAINST HUEY—

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"Jackie," Buie snidely claimed to have "forgotten" that he actually bought the goods.

On January 19 of this year, Buie was arrested on a petty theft charge. Already on felony probation for a previous offense, he faced an automatic sentence to state prison. Buie told one of the arresting policemen, Officer David Politzer, that he "was in fear of his life" because he saw Huey shoot Smith in 1974.

Two to three hours later, at police headquarters, Buie gave a taped statement of what he had allegedly witnessed at 29th and San Pablo. Present were Politzer, Orloff and Don McWilliams, an investigator for the D.A.'s office.

Shortly afterwards, Buie was released from jail on his own recognizance. Two to three weeks later he was placed in the Witness Protection Program.

McCullum squashed an effort by Orloff to play Buie's taped statement to the jury. The judge argued that since Buie had already testified that he gave the statement and its essential content, there was no need for the jury to hear the tape.

After Buie was cross-examined by defense attorneys, Michelle Jenkins was called by Orloff as a witness. Replying to the deputy D.A.'s first question — "Were you present on the corner of 29th and San Pablo in the early morning hours of August 6, 1974?" — Jenkins, who has been a prostitute since she was 12, said:

"I refuse to answer on the grounds that my answer might incriminate me."

The jury was then dismissed from the courtroom as defense attorneys and Orloff began a lengthy debate on the young prostitute's refusal to testify. Howard Gilman, her attorney, told Judge McCullum he had advised his client that anything she might say regarding the 1974 incident would leave her open to a perjury charge.

McCullum granted a motion by Orloff that Jenkins be given immunity from prosecution for any statements she might make. However, she still refused to testify, and Orloff asked that she be held in contempt of court, a charge that carries a minimum jail



HUEY and (left to right) his sister MYRTLE, his mother, Mrs. ARMELLA NEWTON, attorney LUKE ELLIS, Huey's wife GWEN and his brother WALTER were all smiles after all charges in the Kathleen Smith case were dropped against the Black Panther Party leader.

sentence of five days and a \$500 fine.

The judge refused to punish the young Black woman, saying that she was within her rights not to testify. He then told her she was free to leave the courtroom.

McCullum ruled that Jenkins was an "available witness" and therefore, that her previous testimony in the case could be read to the jury. In October, 1977, she testified at the preliminary hearing in the case that Huey shot Smith, and repeated the lie on March 7 when she testified for the prosecution in the first trial.

However, On March 18, Jenkins returned to testify as a witness for the defense and admitted that she lied in implicating Huey because Oakland police officers and officials of the district attorney's office had threatened to jail her if she did not cooperate.

After the court reporter completed reading Jenkins' previous testimony, Chellie Ruth Lewis, a prostitute, was called as a prosecution witness. Orloff maintained that the day after the shooting, Lewis identified Huey as the killer from a lineup of police

mug shots shown to her at her home.

When she took the stand on September 5, however, Lewis answered "no" in a clear and firm voice when Orloff asked her if she saw the person in the courtroom who shot Kathleen Smith.

Following Lewis, Sgt. Richard Brierly testified. Now a member of the patrol division of the Oakland Police Department (OPD), Brierly was a homicide officer in August, 1974, and was assigned to handle the investigation of Kathleen Smith's murder.

Under cross examination by Luke Ellis, Brierly testified that Huey was the prime suspect in the murder from the very beginning of the police investigation. Someone at the scene of the crime, Brierly alleged, told police the BPP leader was the killer.

Based on this information, and reports that the killer was riding in a four-door, silver blue Lincoln Continental, Brierly said that he went to 1200 Lakeshore Avenue, where Huey lived at the time.

Without a search warrant, the OPD sergeant gained entry to the garage where the four-door, silver blue Lincoln

Continental that the BPP had recently leased for Huey's use was parked. Brierly said he did not try to search the locked car but merely felt the hood of the car, which was warm.

"Why didn't you go upstairs, knock on Mr. Newton's door and confront him about the murder?" Ellis asked.

"I didn't have enough reasonable cause," Brierly murmured.

BPP member Larry Henson testified in the first trial that he and another Party member, Bob Heard, who both at the time were bodyguards for Huey, gave Buie a ride home in the Lincoln in the early morning hours of August 6, 1974, after seeing him in the LampPost restaurant, a favorite hangout of BPP members at that time.

Heard drove the car, Buie rode in the front seat on the passenger's side and Larry sat in the back seat. Larry said that Buie, whom he said was drunk, asked Heard to stop at the corner of 29th and San Pablo. Buie, Larry testified, got out of the car and walked over to talk to a young Black woman standing

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# MURDER CHARGE DROPPED AGAINST HUEY—

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on the corner.

The two began to argue. Larry explained, Buie slapped the woman, pulled out a gun and shot her.

Larry and Heard, realizing that they had violated Party policy by allowing a non-Party member to ride in Huey's car and that the Party or Huey might be implicated in the crime, sped away, leaving Buie at the scene.

After Heard took Larry home, he drove the car to Huey's home and told the BPP president what had happened.

Brierly said that he had shown photo spreads, which included a picture of Huey, to Chellie Lewis twice within a week after the murder. The OPD sergeant admitted that on neither occasion did the tall, lanky prostitute identify Huey as the killer.

Closely cross-examined by Ellis, Brierly admitted he knew at least half a dozen different descriptions of the killer had been given to police by the prostitutes who witnessed the crime — descriptions that in no way resembled Huey.

"You knew of the various descriptions of the killer on August 13, the second time you showed the photo spread to Chellie Lewis, didn't you Sgt. Brierly?" Ellis asked.

"Yes," the White police officer said.

"Then why did you still include a picture of Mr. Newton?" the BPP attorney demanded.

"I still considered him the major suspect," Brierly replied.

Following the testimony of Brierly and Chellie Lewis, Officer David Politzer, whose partner arrested Buie for petty theft on January 19 of this year, took the stand.

Cross-examined by Luke Ellis, Politzer said that while he questioned Buie in his squad car, he showed the Black drug dealer several mug shots of police suspects. The police officer said it was his usual practice to carry such pictures to help him "apprehend" criminal suspects.

Politzer said Buie identified a man in one of the mug shots as a drug dealer.

"Charles Buie is a snitch, isn't he, Officer Politzer?" Ellis asked.

"No," Politzer said.

"Isn't a snitch someone

who gives information to police? Didn't Buie give you information?" the attorney insisted.

"I don't agree with your definition of a snitch," Politzer replied.

"What is your definition, officer?" Ellis said.

"A snitch is someone who gives information to police in return for benefits of some kind," the policeman said.

"Would you consider over \$9,000 (the amount paid to Buie by the Witness Protection Program) a benefit?" Ellis pressed on.

"Yes," the police officer was forced to agree.

Next, Orloff called as a witness Officer Richard Tyson, the burly Black cop who worked as an undercover vice squad policeman at the time of the murder. Tyson, who is now assigned to the OPD patrol division, is widely known and feared in Oakland's Black community because of his extremely brutal treatment of criminal suspects.

One week prior to the death of Smith, Tyson and his partner at the time, George Whitfield, provoked an incident with Huey at the Fox Lounge. The two undercover Black cops drew their guns on the BPP leader and threatened to kill him on the spot.

Tyson corroborated previous testimony by Buie that he had called Tyson at police headquarters on the evening of August 6, 1974, identified himself as "XYZ," and claimed that he had seen Huey shoot Kathleen Smith.

"Was it you, Officer Tyson, or Officer Whitfield who was convicted of petty

theft?" Luke Ellis asked the Black cop.

That question threw the courtroom into pandemonium, with Orloff yelling and screaming his objections.

In September, 1974, Whitfield was fired from the OPD for stealing a \$5 tape measure from a Sears and Roebuck store in San Francisco. He was subsequently reinstated as a policeman.

Crystal Grey did not testify in the first trial. Knowing that she had lied at the October, 1977, preliminary hearing in the case when she identified Huey as the killer, she took the Fifth Amendment when subpoenaed by Orloff in March.

Orloff also did not want the defense to probe into the Black prostitute's involvement with Mozelle Mitchell in the 1978 murder mentioned previously.

The deputy D.A., however, desperately needed Grey's testimony in the second trial because Michelle Jenkins refused to testify.

Grey began her testimony calmly and confidently, asserting that she saw Huey shoot Smith. The short, shrewd, Black prostitute, admitted during questioning by Orloff that she was "mellow" at the time of the shooting because she had earlier smoked a marijuana cigarette with Smith.

Tony Serra's tough cross-examination brought a noticeable change in Grey's manner. She had been friendly and cooperative when questioned by Orloff. However, Serra's extensive questions about the inconsistencies in her preliminary hearing testi-

mony and her trial testimony brought her hostility and arrogance to the surface.

Serra quoted a portion of the preliminary hearing testimony which involved questions about a taped interview that took place in early 1977 between Grey and defense investigator Jessica Barnes. Grey told Barnes at the time that she had been promised a house and plane tickets to the Bahamas if she testified against Huey.

"Do you remember being questioned about this at the October, 1977, preliminary hearing?" Serra asked Grey.

"Yes," Grey replied.

"Did you tell Ms. Barnes that police promised that you would never be arrested again for prostitution on the streets of Oakland? Did you tell her that you had been promised a house and a trip to the Bahamas?" Serra demanded.

"I neither affirm nor deny saying it," Grey answered, obviously trying to sidestep a perjury charge. She gave the same answer to several other questions Serra asked concerning the blatant inconsistencies in her testimony.

Grey claimed she "went straight" (stopped being a prostitute) shortly after Smith's shooting and that she worked in various hospitals and nursing homes for five years.

When Serra pointed out that she had been arrested for prostitution in 1978, when she allegedly was off the streets, Grey told him:

"When you lead the fast life like I do, days are like weeks. A square like you wouldn't understand. I was off the streets for five years, give or take a year."

Grey was the last witness called by the prosecution.

Bernard Snowden, a former probation officer of Buie's, was the first witness called by the defense. Snowden, who is Black, was reluctant to testify, apparently having received considerable pressure from the police department and the district attorney's office not to help the defense's case.

At one point, Serra, who questioned Snowden, asked that the probation officer be declared a hostile witness. Snowden finally testified that Buie had gone through an entire court hearing in 1975 pretending to be deaf.

The next defense witness  
CONTINUED ON NEXT PAGE



HUEY talking to some of the many people who attended a July 28 Justice for Huey rally at deFremery (Bobby Hutton) Park in Oakland just prior to the start of the BPP president's retrial.



# MURDER CHARGE DROPPED AGAINST HUEY—

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was Harold Bronson, the manager of an apartment building where Buie worked as a maintenance man in the fall of 1978. Orloff actively attempted to block Bronson's testimony by objecting to almost every question he was asked by Serra.

Bronson testified that Buie "lied, cheated and stole" from the tenants of the building, 26 of whom personally complained to Bronson. In addition, Bronson said he talked with some 75 other people in the neighborhood about Buie.

"He was known as a thief, the 'bad guy' and a dope dealer," Bronson said.

Next, Carl Coleman, a childhood friend of Buie's, was called by the defense. Coleman made it clear that he was not in court of his own free will and that he was very much afraid of police retaliation.

Coleman said that Buie was known on the streets in 1974 as "Lebo." (Buie's middle name is Lee). Crystal Grey testified in the 1977 preliminary hearing that she heard someone say "Hi, Lebo" to the man who got out of the Lincoln Continental at 29th and San Pablo shortly before Kathleen Smith was shot.

In both trials, Buie denied that he has ever been called "Lebo."

Coleman said that he had seen Buie talk to an Emeryville undercover policeman named Dale Phillips. Phillips was one of three policemen who murdered 14-year-old Tyrone Guyton on November

13, 1973. Tyrone, who was Black, was shot in the back.

It was well known on the streets that Phillips had informants, Coleman said. He added that Buie did not seem to be afraid of Phillips but that most people on the streets had nothing to do with the White cop.

Coleman explained that Buie had a bad relationship with prostitutes in the area. "He got into arguments with them," the young Black man said. "He would steal from the 'tricks' who came from Concord and that would make the prostitutes mad," Coleman said.

Despite Coleman's fear of police harassment — "I am sure there will be some," he told Judge McCullum at one point — Coleman courageously answered the questions asked him by defense attorney Luke Ellis. The judge, seeking to assure him, told Coleman that no one had the right to take any action against him because of his testimony.

Sandra Sutherland, a private investigator, was the next witness called by the defense. Sutherland interviewed Michelle Jenkins in late August in the presence of Huey's attorneys.

"She said that the police wanted to get Mr. Newton," Sutherland testified. "She said she had been pressured and harassed by police over the last five years. She was upset and concerned about what would happen to her if she testified again," the Australian investigator said.

At Jenkins' request, defense attorneys subsequently asked



At a press conference, HUEY demands the prosecution of a White policeman who recently killed a Black man. The officer has been involved in six fatal shootings, including the 1969 murder of 17-year-old Bobby Hutton, who was the first member of the Black Panther Party.

Judge McCullum to appoint an attorney for her. The judge appointed Howard Gilman.

Gilman, a former Alameda County district attorney now in private practice, followed Sutherland on the witness stand. Questioned by Tony Serra, Gilman admitted that he earned the nickname "Mad Dog" from his fellow district attorneys because of his vigorous prosecution of criminal cases.

Tony Serra surprised the entire courtroom crowd when he abruptly announced the morning following Gilman's testimony that the defense rested its case. "We believe that the prosecution has not met its burden to prove Mr. Newton's guilt beyond a reasonable doubt," Serra said. "The defense rests."

In his opening statement,

Serra mentioned the testimony given in the first trial by Gwen Newton, Huey's wife, and author Donald Freed. Both testified that they were with Huey at the Newtons' apartment at the time Smith was shot. Huey and Freed were working on an article about religion.

Orloff had expected the defense to call Gwen, Freed, and Larry Henson, who testified in the first trial that he saw Buie shoot Smith. So weak was the D.A.'s case, however, that Huey and his attorneys decided it was not necessary for Gwen, Freed or Larry to testify.

Nor was it necessary for Huey to testify. In the first trial, he was on the witness stand for three and one-half days in his own defense.

Orloff's closing argument to the jury was as weak as his entire case had been. Serra, on the other hand, was eloquent and convincing in recounting the facts in the case, facts which he said in no way implicated Huey Newton in the murder of Kathleen Smith.

"Imagine, if you will," he said to the attentive jury, "that there is a blazing red banner above us with the words, BEYOND ALL REASONABLE DOUBT, TO A MORAL CERTAINTY and THE DEFENSE HAS NO BURDEN."

He then went over all the numerous areas in which there was reasonable doubt.

At the end of his two-hour, 45-minute statement, Serra implored the jury:

"Justice requires the ac-

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## French Actress Victim Of F.B.I. Smear Campaign

(Washington, D.C.) Documents recently released by the FBI reveal that a smear campaign conducted by the spy agency against Jean Seberg, a noted French actress who reportedly was a financial contributor to the Black Panther Party, led to her suicide in early September.

In 1970, the FBI office in Los Angeles planted a rumor, published by the Los Angeles Times, that Seberg was pregnant by a leader of the BPP. The FBI head office here approved sending out the letter with the stipulation that it be held up for two months "until

Seberg's pregnancy would be obvious to everyone."

Romain Gary, the French



author who was Seberg's husband in 1970, said he was the father of the child and that the FBI had destroyed her life. Gary said Seberg had been deeply distressed by the smear campaign and had lost the baby at birth. Afterwards, she tried to commit suicide several times.

The Seberg incident was part of the FBI's notorious COINTELPRO program to "disrupt, discredit and destroy" the Black liberation struggle. About 90 per cent of the 295 COINTELPRO activities that have been made public were directed against the BPP.



# BEHIND THE WALLS: STRUGGLES OF PRISONERS

## Atmore—Holman Prison—"The Southernmost Part Of Hell"

(Holman Prison, Ala.) - Black prison activist Johnny (Imani) Harris faces a death sentence as a result of his false conviction for the murder of a prison guard at Atmore-Holman Prison in Alabama during a 1974 inmate rebellion against inhumane conditions. Harris is one of the Atmore-Holman Brothers, six Black prison activists currently serving lengthy sentences here on charges stemming from the rebellion. Following is an urgent appeal for support recently received by THE BLACK PANTHER from Atmore-Holman Brother Lincoln (Makau) Heard.

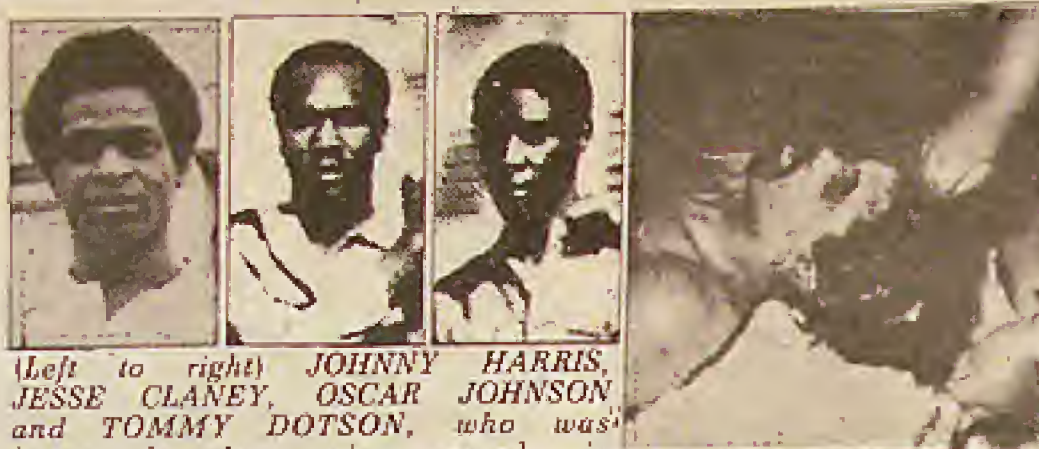
"We, the Atmore-Holman Brothers, presently confined in Holman Prison Unit, do herewith bring to the attention of the aware and concerned public the atrocious injustice that led to more years being taken from our lives, and the needless death of one of our beloved brothers, George (Chigina) Dobbins.

In 1973, the Atmore-Holman Brothers and other inmates formed an organization here called Inmates For Action (IFA). This organization was formed in hopes of ameliorating the unbearable conditions prisoners are forced to endure here.

"After establishing IFA, the Atmore-Holman Brothers were thrown into the Segregation Unit. But rather than accept defeat, we continued to read, write, teach other prisoners, and we organized ourselves against the brutal and repressive guards, wardens and this racist prison system.

"On January 18, 1974, a rebellion against unbearable conditions broke out in the Segregation Unit of Atmore Prison Farm—now Fountain Correctional Center—which left Dobbins dead from nine stab wounds inflicted to his head by the sadist guards.

"No one has been charged with that cold-blooded murder. "Someone killed a guard also, and out of 65 people, the Atmore-Holman Brothers were picked out, charged, framed and convicted of murder charges. "Our sentences are as follows: Heard, life; Harris, death penalty; Grover (Sitting Bull) McCortey, life; Oscar (Gamba) Johnson, 50 years; Charles 2X Beasley, 15 years. Jesse (Tuba) Clancy



(Left to right) JOHNNY HARRIS, JESSE CLANCY, OSCAR JOHNSON and TOMMY DOTSON, who was beaten by four prison guards in March, 1974.

was also convicted.

"There is really no evidence against us. We have been accused and convicted of murdering a prison guard just because we were in the Segregation Unit at the time of the murder.

"There were 65 inmates in that unit at that time, but the Atmore-Holman Brothers were the only inmates framed and convicted of this false charge.

"We are innocent and therefore maintain that our presence in prison today is unrelated to any criminal act that we committed here. We are targets of a political frame-up which, far from pointing to our culpability, implicates the state of Alabama as an agent of political repression.

"Right now Johnny (Imani) Harris faces a possible death by

electrocution on a charge of murder which he nor any of the Atmore-Holman Brothers had any connection with. This charge is not separate from, but is a continuation of, the Atmore-Holman Brothers' persecution for our political beliefs. "We were framed only because we formed and organized the IFA in hopes of ameliorating these unbearable prison conditions through peaceful means.

"Eradicate death row, free the Atmore-Holman Brothers and annihilate all forms of injustice by any means necessary."

For more information concerning Johnny Harris, write to Tom Gardner, c/o Workers World Party, P.O. Box 424, Atlanta, Ga. 30301; or Jennifer Johnston, Alabama Prison Project, P.O. Box 447, Montgomery, Ala. 36101, telephone (205)262-0304. □



## Calif. Activists Face Third Trial

(Oakland, Calif.) - Ernest Graham and Eugene Allen are two young Black men currently incarcerated on Death Row in San Quentin Prison in California. This September they will face their third trial on charges stemming from the death of a prison guard at Deuel Vocational Institute (Tracy) in 1973, reports Conspiracy, a publication of the National Lawyers Guild.

Graham grew up in Watts. As a teenager, he did time in juvenile detention centers and at age 19 he was sent to prison (five years to life) for a minor robbery.

Inside prison, Graham became an organizer and as a result was labeled a "troublemaker" by prison authorities.

He survived two years on Soledad's notorious "O Wing" (solitary confinement) before being sent to Tracy in 1973. There

he meet Eugene Allen.

Allen had been an exceptional high school student in Merced, California. He was arrested at age 18 on a charge of school vandalism and was sent to Preston, a Youth Authority prison.

In 1972, a rebellion exploded at Preston, during which one of the inmates was killed.

According to Sam Brooks, the authorities picked on Allen, who was the youngest of the group: he was given the choice of telling the authorities who had done the killing or having the charges hung on him.

Five months later, Allen was convicted of first degree murder and sentenced to a seven years to life term.

At Tracy, the two men were active organizers who tried to reduce racial tensions among the

## Maryland Inmates Punished For Protest

(Hagerstown, Md.) - The following letter was written by prison activists incarcerated at Maryland Correctional Institution in Hagerstown.

"On June 28 prisoners at the Maryland Correctional Institution (MCI) in Hagerstown staged a sit-down strike in an attempt to peacefully voice their grievances in regard to the racism and dehumanizing conditions they are daily confronted with.

"The MCI administration's response to this peaceful protest was one of subtle contempt and indiscriminate harassment. On the first two days of the strike, prison guards came to prisoners' cells and individually threatened them with infractions, segregation, and revocation of MAP contracts.

"To their dismay, however, the majority of the prisoners remained steadfast in not going to work.

"Lester Stoner, the assistant superintendent of custody, summoned the entire MCI Inmate Council before him, blankly accused them of orchestrating the strike, and subsequently placed them all on 'administrative segregation.'

"The Inmate Council as a whole had no active part in the organizing of this strike. The deplorable conditions of this prison prompted the prisoners to act and organize in their own behalf because they had become tired of the seemingly stalemated position the I.C. had reached with the administration with respect to resolution of their grievances.

"There is little doubt that the Council being placed on segregation was retaliation against them for not trying to dissuade prisoners in their decision to strike, or for not informing the administra-

tion of the strike.

"Due to administrative reaction—lightening irrationality and sweeping irresponsibility—a large number of prisoners who were unassigned and did not have to work, or who were simply off that day, or who were legitimately ill, were placed on administrative segregation along with all other prisoners who refused to work and were given outrageous charges.

"Some of these charges may be prosecuted in criminal court in addition to the disciplinary action taken by the institution.

"As of this writing, all prisoners involved, or mistakenly involved, in the sit-down strike have received no less than four months on segregation.

"Because there are so many prisoners now on segregation, two regular housing sections have been turned into segregation units—further decreasing the likelihood of prisoners on segregation being able to get hot meals, regular showers, and decent medical attention. The prisoners on segregation are housed two to a cell. Even for a prisoner in the general population, this is a very psychologically taxing predicament.

"MCI is located in a very remote, isolated area. This no doubt accounts for much of the unchecked repression that goes on here.

"To combat these conditions, we are asking members of the community to demand that this institution be investigated.

"This demand can be made by writing to Governor Harry Hughes, State House, Annapolis, Maryland 21403, and to Gordon C. Kamka, Secretary of Public Safety and Correctional Services, 6314 Winder Mill Road, Baltimore, Md. 21207." □

inmate population. They were accused of being gang members and were subjected to constant harassment.

Both were informed that the prison authorities were actively seeking to neutralize their political work.

On November 27, 1973, a White prison guard was assaulted and stabbed to death. On December 5, the San Joaquin County grand jury returned indictments against Graham and Allen accusing them of the killing.

At the first trial, three inmate "eyewitnesses" testified against Graham and Allen, reportedly in order to win early release from

prison. Their stories were contradictory and the trial ended in a hung jury—there were several Third World people on the jury.

Most of the prosecution witnesses at the first trial had been White. In the second trial, the prosecutor used peremptory challenges to exclude all Blacks from the jury.

Two of the three inmate witnesses who had testified at the first trial had since been released on parole. They were not present at the second trial. Since the prosecutor read their testimony into the record, their stories could not be cross-examined in front of this jury.

## Pontiac 17 Fight Death Penalty

The following article, written by attorney Jeff Haas, is reprinted from the July issue of Guild Notes, a publication of the National Lawyers Guild. Haas is co-counsel for the families of Fred Hampton and Mark Clark in the \$47.7 million lawsuit stemming from the December 4, 1969, pre-dawn police raid in which the two Illinois Black Panther Party leaders were assassinated.

(Chicago, Ill.) - On March 5, 1979, the Livingston County, Illinois, grand jury handed down indictments for the July, 1978, Pontiac Prison rebellion. To date, 31 prisoners have been charged, 17 of them for the murder of three

## Carl Bass Lost Legs In Alabama Prison

The following article, written by progressive attorney Jeff Haas, is reprinted from the July issue of Guild Notes, a publication of the National Lawyers Guild.

(Portland, Ore.) - Pressure is mounting on Governor Vic Atiyeh to stop the extradition of a 32-year-old Black Alabama prison escapee whose denial of proper medical care while incarcerated there resulted in gangrene and the amputation of both of his legs.

In a letter received last month from Steve Kanter, president of the Oregon chapter of the American Civil Liberties Union (ACLU), Atiyeh was asked to withdraw an extradition warrant he signed for Carl Bass, who, fearing for his life, fled while on furlough in May, 1978, from Alabama's notorious Draper Prison.

Bass, who was captured here on May 4, 1979, was released on

The jury found Graham and Allen guilty and they were sentenced to automatic, mandatory death penalties.

The California Supreme Court overturned the conviction in February, 1979. In an earlier case, *People v. Wheeler*, the court had ruled that peremptory challenges could not constitutionally be exercised on the basis of "group bias" to exclude potential jurors from a jury in a criminal case.

The court found that at Graham and Allen's second trial, the district attorney used peremptory challenges "to remove every Black individual." □



Families and friends of Black inmates at Pontiac Prison in Illinois waiting to visit their loved ones.

White guards.

Of the 31 indictees, 28 are Black, 3 Latino. All 17 indicted for murder are Black, and each has been charged with 15 counts of

murder.

Prosecutors have stated publicly their intent to seek the death penalty on all murder cases and have promised imminent additional indictments.

Pontiac Penitentiary is located 100 miles southwest of Chicago in a predominately White rural county. The prison is holding twice its capacity, and 80 per cent of its population is Black.

After the massive July rebellion which brought to light the inhuman conditions of Illinois prisons, Department of Corrections (DOC) officials blamed hot weather, overcrowding and understaffing, calling the rebellion a "spontaneous act."

Shortly thereafter, however, both Governor James Thompson and prison officials began a media campaign to convince the public that the rebellion was caused not by prison conditions but by Black Chicago gangs, and that these gangs had ordered the deaths of the three guards.

This campaign included the labelling of 10 prisoners as incorrigible gang leaders, with an attempt to transfer them to federal prisons throughout the country.

It culminated in a much publicized "retaking" of Illinois' Stateville Prison (where 29 of the Pontiac Brothers had been transferred after the rebellion) by the National Guard on February 24, 1979.

There, with press invited and present, the governor and his former aide, Gayle Franzen, now director of the DOC, displayed an orange-suited, helmeted, baton-wielding, riot squad. This army, accompanied by German shepherd dogs, was to give the impression of wresting control of the prison from gangs.

Efforts by the state to gain convictions at any cost began immediately after the July rebellion. □



CESAR CHAVEZ VISITS OAKLAND COMMUNITY SCHOOL DURING 150-MILE MARCH

# U.F.W. WINS MAJOR VICTORY IN CALIF. LETTUCE STRIKES

(Salinas, Calif.) - The United Farm Workers (UFW) union won a major victory in its eight-month-old lettuce strike in late August, announcing a tentative contract agreement with the nation's largest lettuce grower, United Brands.

The pact with Sun Harvest, which is owned by United Brands, gives farmworkers a 57 per cent increase in wages and fringe benefits.

Following the accord, the UFW called off an effective nationwide boycott of Chiquita bananas and all other products of United Brands.

The strike, however, continues against 10 other big growers in the Imperial Valley in southern California near the Mexican border and the Salinas Valley. The latter is by far the largest lettuce-producing area in the nation, harvesting roughly 80 per cent of the country's summer lettuce.

The UFW boycott also will continue against iceberg lettuce produced by Bruce Church, Inc., under its "Red Coach" label. Bruce Church, the nation's third largest lettuce producer, is headquartered in Salinas.

The UFW has charged that Bruce Church is spearheading a legislative drive aimed at weakening the state's agricultural labor relations laws.

The proposed settlement with Sun Harvest followed a 150-mile march, led by UFW founder and President Cesar Chavez, from San Francisco to Salinas to rally nationwide support for the strike by some 2,500 farmworkers.

Chavez and a group of over 100 farmworkers stopped for water at the Oakland Community School (OCS) on the first day of their march.

"It doesn't matter what color a person is. We are all



UFW President CESAR CHAVEZ greets supporter on his march down East 14th Street in Oakland.

human beings, and Black people have given farmworkers as much help as anyone else," Chavez told a crowd of children, instructors and staff at the OCS. "We are all in the same boat, and we all have to get to the same place together."

The march to Salinas was highly successful, drawing some 10,000 people to what is commonly known as the nation's "salad bowl" to a rally on August 11. Chavez, 51, observed a water-only fast throughout the 12-day march.

Over 2,000 farmworkers walked off their jobs in the Salinas Valley to join the march. On August 12, the UFW held a special one-day convention at which Chavez formally announced the boycott against United Brands.

At the OCS, Chavez and his farmworker contingent cheered as Ericka Huggins, OCS director and a leading member of the Black Panther Party, pledged:

"We will encourage...the entire community to support your boycott" and lettuce strike.

Meanwhile, *Workers World* reports that over 125 men, women, and children began a four-day march in Toledo, Ohio, late last month that will take them over 85 miles through the Northern Ohio farm country. Members and supporters of the Farm Labor Organizing Committee (FLOC) are marching to draw attention to their strike for better wages and conditions in the tomato fields.

The demonstration is also protesting violence and threats that have been directed against the strikers.

In a press conference held just before they stepped off, FLOC spokesman Baldemar Velasquez explained, "We are here today to let people know that the employers and the growers have threatened us with violence and the law enforcement agencies are protecting the investments of the canneries and growers."

Velasquez reported that the growers are now paying 30 to 35 cents per hamper of tomatoes — the same wage demanded in last year's strike — in order to entice strikebreakers. Farmworkers are also being brought in by crew leaders without being told that a strike is in progress.

FLOC has called on these workers to join the strike and is confident they will come out of the fields.

Velasquez exposed the role of the giant Libby's and Campbell's canneries in trying to break the union drive. FLOC, along with committees in 48 cities, is organizing a nationwide boycott of these giants. □

## Gay Rights Demonstration Set For Oct. 14 In D.C.

(San Francisco, Calif.) - October 14 has been set as the date for an unprecedented march on Washington, D.C., by gay people from across the country.

The protest will be the first national mass demonstration for equal rights by gay people in U.S. history.

The official theme of the protest is, "End All Social, Economic, Judicial and Legislative Oppression of Lesbians and Gay People."

The following five demands will be the focus of the demonstration:

(1) Repeal of all anti-lesbian/-gay laws.

There are still 34 states which deny lesbian and gay people the Constitutionally guaranteed right to privacy in their homes and social environments. Laws also prevent lesbians and gays from being licensed as doctors, lawyers, teachers and other professions.

(2) Passage of a comprehensive federal gay rights bill, which would include a ban on discriminatory hiring practices.

(3) Issuance of a Presidential Executive Order banning discrimination based on sexual preference in the federal government, the military, in housing, and in federally contracted private employment.

(4) Non-discrimination in lesbian mother and gay father child custody cases.

(5) Repeal of laws which discriminate against gay youth.

The march on Washington was first conceived by a group of women activists in Minneapolis, Minnesota, and quickly spread across the country.

San Francisco Supervisor Harvey Milk, an avowed gay, was working on the march at the time of his assassination on November 27, 1978.

Dan White, the former police officer and supervisor who was convicted of killing Milk and San Francisco Mayor George Moscone in May, was sentenced to a maximum term of only seven years in prison for the cold-blooded, self-confessed murder of the two elected officials.

Coinciding with the march on Washington will be the first National Third World Lesbian and Gay Conference, which will be held in the nation's capital on October 12-15.

The conference will address the issue of racism as it affects gays in Black, Latin, Asian, Native American and other Third World communities. □



United Farmworkers President CESAR CHAVEZ



# DAVID G. DuBOIS: "THE WHITE LEFT HAS ABANDONED THE BLACK LEFT"

"...the White left has allowed itself to be provoked, coerced, frightened and finally persuaded into relegating the Black liberation struggle to a point just slightly above other ethnic struggles...and always below that of the White working class...."

In the first of a series of articles that will appear in *THE BLACK PANTHER*, internationally acclaimed Black journalist and author David G. DuBois probes what he describes as the "almost total loss of credibility by the left among the Black American masses." DuBois, former editor-in-chief of *THE BLACK PANTHER*, warns that this situation cannot continue to exist if a revolutionary movement in America is to succeed.

The series is reprinted from the Guardian. **PART 1**

The Black left talking to the left has for so long been such a barren and frustrating undertaking that it is hard for some of us to come back to it.

But, come back to it we must, because in today's world our survival, that is, the survival of the Black masses in America and of a revolutionary left in our time, will ultimately depend on that left's understanding and correct application of its role in relation to the Black liberation struggle in America and the world....

At this moment in history no issue is potentially more explosive, more generative, more universally empathetic or more vulnerable than that of the relation of Black Americans and other Americans of color to this society's institutions and ideals.

The nature, scope and response to the historic 1960's civil rights movement and "burn, baby, burn" rebellions, and their interplay with the rapid emergence to political independence of Black African states in that same decade should have established this fact beyond question.

Apparently the U.S. power structure learned well this lesson of the 1960's. For it has in the 1970's pulled out most but not all the stops in a concerted, carefully orchestrated, ruthlessly determined effort to defuse this potentially destructive time bomb in



1978 anti-Bakke demonstration in San Francisco. According to David DuBois, the White left in America today is "reacting (to issues) rather than initiating; defending rather than attacking; allowing battlegrounds to be chosen for it rather than choosing the battlegrounds; following rather than leading...."

its midst and ultimately eliminate it.

The backlash, at home and abroad, is at the heart of this effort, with the objectives being the total subjugation or annihilation of the Black masses in the U.S., and in Africa the undermining and overthrow of revolutionary socialist regimes and the creation of client states.

But the left appears to have learned little from those fateful 1960's. It has gone blithely on raising more or less the same slogans as those of the late 1940's and 1950's, advocating more or less the same priorities, functioning in the same ways in the same or similar organizations: reacting rather than initiating; defending rather than attacking; allowing battlegrounds to be chosen for it rather than choosing the battlegrounds; following rather than leading.

Despite repeated warnings from Black activists — not always on the highest ideological plane, but too numerous, too vigorous and too passionate to have been ignored — the left has allowed itself to be provoked, coerced, frightened and finally persuaded into relegating the Black liberation struggle to a point just slightly above other ethnic struggles, often below the struggle for women's liberation and always below that of the White working class.

The result has been a steady erosion of what few programmed-for-failure gains

were achieved as a result of the revolt of the 1960's, an overall worsening of the Black condition in America and, most important, an almost total loss of credibility by the left among the Black American masses.

*Such a situation is intolerable because no revolutionary movement in this country will succeed that cannot win to it the hearts and loyalties of the Black American masses. It would be a disastrous mistake to believe otherwise. (Emphasis ours.)*

Racism's intimate, personally emotive relationship to every American, White and non-White, is what makes the issue of Black liberation so explosive and so generative. Although no White American can avoid acting out, thinking, feeling and often unknowingly expounding the White racist reality of American society, few, very few are prepared to admit it.

"Why, I'm no racist," they vehemently insist and believe. When, in fact, no White American nurtured by the American society can help but be a racist, whether advocate or not, whether revolutionary or reactionary. What we are and what we want to be are rarely in harmony. White racism is part of the very fabric of this country.

The American republic was founded on the genocidal ruins of a people of color, the Native American. Its initial wealth was created by Black African slave labor. Racist

theories of the inherent inferiority of these two peoples of color have been and are still used to justify both these crimes.

These same theories have continued to be used to deny both peoples equal access to the material and spiritual fruits of their land and their labor.

With the memory of the horror of Hitlerite racism so fresh and Africa's emergence so dramatic, where else in today's world, except in the Republic of South Africa, is there a resurgence of White racist theorizing, propaganda and activity, and so meager a protest?

At the same time, the vast majority of White Americans do not want to be racists or to be thought of as racist. Those for whom circumstance has thrust the issue into consciousness — the rebellions of the 1960's did this for many — are desperately seeking ways to rid themselves of their racism.

But they haven't a clue how to start. A revolutionary leadership must provide the means. It is an urgent task before which all others recede if the nation's swing to the right, the gravest danger to the whole people, is to be checked and reversed.

Among Black Americans and non-Whites in general, the explosive and generative potential of the Black liberation struggle should by now be self evident. From soon

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# Intercommunal News

## Z.A.N.U.'S U.N. ENVOY: "THE MILITARY SITUATION IS EXCELLENT" IN ZIMBABWE

(Chicago, Ill.) — Tirivafi Kangai, the chief representative to the U.N. of the Zimbabwe African National Union (ZANU), describes the excellent military situation enjoyed by ZANU guerrillas inside Zimbabwe-Rhodesia in the following interview recently conducted by Keep Strong magazine here.

Meanwhile, warplanes and commandoes from the Black puppet regime in Zimbabwe invaded neighboring Mozambique late last month in the first such raid since the start of peace talks in London, England, September 10.

The dismantling of Zimbabwe's White-controlled army to facilitate the peaceful transition to a new, freely-elected government is the major demand being put forth by the Patriotic Front at the London talks.

ZANU is allied with the Zimbabwe African People's Union (ZAPU) in the Patriotic Front, which is leading the armed liberation struggle.

The raid in Mozambique attacked civilian targets and refugee camps operated by ZANU. It was the twenty-fifth invasion this year of one of the five frontline states which support the Front.

**KEEP STRONG:** What is the current situation in Zimbabwe from your point of view?

**KANGAI:** The situation is excellent. We are quite happy with the way the war is going.

We, at the present moment, have liberated one-third of the country; this is mostly in the countryside. Another third of the country is still contested, but our military presence is very strong. Attacks have also begun in the urban areas. In fact, I received a



ZANU is serving the needs of the people in the liberated areas of Zimbabwe. TIRIVAFI KANGAI (inset).

report from Salisbury, from observers, people who are not workers, and they say that urban forces are now surrounded by our forces.

**KEEP STRONG:** Can you explain a little more what you mean by liberated areas?

**KANGAI:** When we talk of liberated areas we are referring to areas where our forces are in control. The enemy cannot go into these areas by land. Once in awhile they can fly in and bomb the people, but we are developing contingency plans to stop that.

In these areas, where our forces are in control, they help the people to establish people's power. The people elect leaders from their own communities.

They organize themselves into production and construction units. We organize people to work collectively: they can work on the roads, on water systems and irrigation. They work on their own.

In the liberated areas, we have established an administration. People's centers have been established.

We have also mobilized the people into people's militias so they can defend themselves in case the enemy comes to the area.

**KEEP STRONG:** How has the



election of "Premier" Bishop Muzorewa affected ZANU's influence among the people?

**KANGAI:** It hasn't really affected our struggle in a negative way. Our people are quite clear that the so-called elections were bogus, to say the least.

First of all, the elections were about a constitution which guarantees the current trend of minority rule in our country. This is the issue that people should focus on. We've been able to explain to our people that this constitution is really just a game by Ian Smith to remain in power while coopting some Africans.

Under the provisions of this constitution, Europeans will continue to control the civil service, the judiciary, the army and the police. They also have a powerful veto in the assembly. In other words, Africans in that regime will not be able to make any changes at all.

**KEEP STRONG:** Can you describe the political and military climate in Zimbabwe during the elections?

**KANGAI:** The enemy mobilized thousands of its forces during the so-called elections. There were also quite a number of forces which came from South Africa to help the Rhodesian forces. They had helicopters, planes, regular forces and military reservists were called up within Zimbabwe in order to have a big operation to make sure that people voted.

European employers were threatening African workers that if they didn't vote they would lose their jobs. This was happening in urban areas as well as on rural farms where Africans work.

In some cases voters were driven to the polling stations by their employers. It would be very difficult for any employee to refuse to go. Any individual who refused to vote ran the risk of being labeled a "terrorist"

supporter, which carries the death penalty if one is arrested by the regime.

So people voted in urban areas in order to save their jobs; those who voted in the countryside did so because of pressure from the so-called private armies.

However, many people did not vote. We are told by Muzorewa that 2.5 million Africans were eligible to vote and that 64 to 65 per cent of the 2.5 million voted.

But if you will investigate you will find that the African population of Zimbabwe is seven million. We can't believe that 4.5 million Africans are under the age of 18.

Few people actually voted in the election. We don't think that an election conducted in a country which is at war, where 95 per cent of the country is under martial law, which is a state of emergency, can be called democratic and fair.

**KEEP STRONG:** What position have other African states, particularly the frontline states taken towards the Muzorewa government?

**KANGAI:** The frontline countries have rejected the "internal settlement" which set up this government and they have also declared the recent bogus elections "null and void." This position has also been taken by the Organization of African Unity, the Commonwealth of Nations, the United Nations, and by the entire international community.

**KEEP STRONG:** Recently, some elements in both the U.S. and British governments have called for a lifting of the economic sanctions which have been imposed on the Rhodesian regime by the entire international community since 1965. How would the lifting of these sanctions affect your struggle?

**KANGAI:** Well, if sanctions

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Education and health care are among the many survival programs ZANU has implemented in the liberated areas of Zimbabwe.





## MOZAMBICAN PRESIDENT

## SAMORA MACHEL: "MARXISM-LENINISM IS THE COMMON PROPERTY OF ALL EXPLOITED PEOPLE"

The following recent interview with Samora Moises Machel, the president of Mozambique, is reprinted from the Tanzanian Sunday News. PART I

**QUESTION:** PRELIMO began its first major campaign to admit new members in February last year. Briefly, how would you describe the Party's presence in the country today?

**MACHEL:** The Party structuring campaign which ended last November made it possible to create hundreds of cells in priority work places and residential areas. Tens of thousands of new members have been admitted.

Today, the Party is present, through its militants, throughout the country. The Party's leadership role in state and society is thus guaranteed.

**Q:** Mozambique has a high level of illiteracy. What implication does this have for popularizing Marxist-Leninist concepts among the largely illiterate workers and peasants?

**MACHEL:** The concept be-

hind this question is that it (Marxism) is a foreign experience. So how will they learn if they can't read? But listen — and this is the principle point — Marxism-Leninism is a class science.

Who is it who makes Marxism? Who makes this science after all? Is it the scientist closeted with his books?

A science belongs to its creator — the working class. Its creator is the people, the people in their centuries-long struggle against the different forms and systems of exploitation. Its creator is, above all, the working class which, because of its specific role in society, is capable of conceiving of a new society, a new type of relations among the people.

Now then, who is the best Marxist? Is it the person in the library reading tomes — or the one doing the job? Scientific socialism was not forged and developed among these who spend all their

time in libraries and universities. That is a lie!

It was not the agronomists who invented geometry; it was the peasants...in the demarcation of their land. They invented the science right there.

The Mozambican workers have a long experience of suffering and struggle against slavery, feudalism and capitalism. How do you interpret this?

Who were the people who took power in Russia? We're they from the university? Who were the people who took power in the long march in China? Were they from the university?

**Q:** You have said that socialism cannot be built with an illiterate population.

**MACHEL:** That's right. During the literacy campaign, Party members are the object of a special literacy drive aimed at raising their scientific knowledge and conceptions of the world. To be able to read, to have the capability to synthesize expe-

riences, to raise them to the level of theory.

There are two things here: one is to see where the theory comes from, where the ideas come from. They come from praxis! Now we want the people to synthesize this praxis, to have the capacity to synthesize their experiences.

Thus the illiterate peasants in Cabo Delgado learned the essence of the system of exploitation of man by man that the new exploiters of the Simango-Lazaro group tried to introduce in the liberated areas. Now, Marx went there to say: "Look, this is exploitation, this is this and this is this." They didn't read it in any books, but they felt it: these new exploiters, let's fight them.

It was these peasants who struggled and brought about the victory of the cooperatives over exploitative private commerce and the big landowners. It was the peasants! They struggled and made people's power, class power, triumph over feudal and bourgeois power that the new

CONTINUED ON NEXT PAGE

### Jackson Attacked By Black S. Africans

(United Nations, N.Y.) - The banned Pan Africanist Congress (PAC), one of two internationally recognized liberation movements from South Africa, has denounced the recent visit of civil rights leader Jesse Jackson to South Africa as giving "tacit support" to the apartheid regime. Tom Madikoe Manthata, a leader of the Black Conscious-



JESSE JACKSON



ness Movement and member of the influential Committee of 10 in South Africa, also blasted Jackson's visit. Jackson is "a diabolical Western agent who was more interested in being elected to the U.S. Congress than in advancing the real interests of South African Blacks," Manthata said.

### Angola Accuses S. Africa

(Luanda, Angola) - Angola has accused South African troops of invading its territory to attack Angolan forces 14 times in a six-week period ending in late August. Angola allows the South West African People's Organization (SWAPO) of Namibia, which is illegally occupied by South Africa, to operate military bases and refugee camps in the country. Meanwhile, SWAPO has charged that, as of June 23, over 5,000 Namibians have been arrested and detained in a concentration camp near the capital of Windhoek. SWAPO said that many had died of starvation.

### U.S. Arms S. Africa

(Boston, Mass.) - Charges against a Vermont arms dealer are pending following an eight-month probe of illegal arms shipments from the U.S. to South Africa via Canada. There is evidence that the arms shipments by Space Research Corporation (SRC) were aided by the CIA and Pentagon. SRC owes its entire existence to Pentagon contracts, according to a documentary film by Boston's WGBH-TV.

### S. African Scandal Probed

(Washington, D.C.) - A federal grand jury here is probing the illegal activities of John McGoff, a Michigan publisher who tried unsuccessfully to buy the Washington Star in 1974 with secret South African government funds. South Africa has admitted that it advanced McGoff over \$11 million which he eventually used to buy the Sacramento Union in California.

### Eritreans, Somalians Battle Ethiopia

(Addis Ababa, Ethiopia) A major Ethiopian offensive has been crushed by guerrillas who have been fighting since 1961 for independence in Eritrea, a northern Ethiopian province that was once an Italian colony, the Los Angeles Times reported in early September. Meanwhile, ethnic Somali guerrillas seeking autonomy in the 60,000-square-mile Ogaden desert region of eastern Ethiopia said they killed 400 Ethiopian soldiers in a 36-hour battle earlier this month.

### Peace Treaty In Chad

(Nairobi, Kenya) - The fourth peace treaty in less than six months went into effect in the central African country of Chad earlier this month, but few observers believe it will end 13 years of civil war. The conflict stems from political differences between the mostly Black south and Arabs who predominate the north. The embattled new government is controlled by Arabs.



## Military Situation In Zimbabwe

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are lifted, that could prolong the war for a short time, but it will not affect the ultimate victory that we are going to win.

Our position is that it helps if sanctions are not lifted. It would be a morale booster for Smith and Muzorewa if sanctions are lifted, but we don't think it can save them.

In Vietnam, the U.S. did not have to send observers to observe elections. It poured weapons and men into that country, but the result was still a resounding defeat for the U.S. and imperialist forces.

If sanctions were to be lifted it would be very bad for the U.S. government and its multinational companies. If they come openly and in a big way to support the present regime, then when that regime is overthrown it will be very difficult for the U.S. to establish any relationship with the government which we are going to form.

**KEEP STRONG:** Can you give us your projections and assessment of the future of the struggle

in Zimbabwe?

**KANGAI:** We can assess, but we cannot give you a time limit. We are waging a protracted war. We might win today, or next week, or next month, or in a few years time. This is our view of the struggle in Zimbabwe.

We think that the war will continue to intensify. It is intensifying at the moment. My assessment is that one or two things will happen sooner or later.

### OVERTHROWN

The British, Ian Smith and Muzorewa may come to their senses before they are overthrown and negotiate seriously with our fighting forces. Our position is that the Rhodesian regime and the "internal settlement" constitution has to be put aside. We can then start with serious negotiations with the British, who are the colonial power. We then can come up with a constitution which will transfer real power. I'm talking about political, economic and military power, to our fighting forces. Then the Rhodesian armed forces will be demolished.



ZANU guerrillas.

We can then talk about elections "null and void." This contest in these elections, including elements from the Salisbury government. However, these elections will not be supervised by the Rhodesian regime. No, first of all they will be supervised by our freedom fighters. We may consent to some United Nations supervision if those countries which support Smith are not included.

It is our view that this is really quite a concession to make when

you are fighting a revolution. However, we are quite sure, in fact we have intelligence information which indicates that if fair elections were held today, ZANU, led by its president Robert Mugabe, would win.

The other thing which could happen, the solution which most of us prefer, is the continuation of the war until Smith and his puppet, Muzorewa, is overthrown. Then we will establish a people's government. It will be our own, without U.S. or British involvement. □

## "Marxism-Leninism Is The Common Property Of All Exploited People"

CONTINUED FROM PAGE 13

exploiters tried to impose.

They didn't know where the door of the university was. They didn't even know the way there.

The people's liberation war, our military science which defeated the colonial-fascist generals, was drawn up and developed by our own illiterate people. Marxism-Leninism did not appear in our country as an imported product.

Mark this well, we want to combat this idea. Is it a policy foreign to our country? Is it an imported product or merely the result of reading the classics? No. Our Party is not a study group of scientists specializing in the reading and interpretation of Marx, Engel and Lenin.

Our struggle, the class struggle of our working people, their experiences of suffering all enable them to assume and internalize the fundamentals of scientific socialism. The same struggle contributes to the continuous development and enrichment of Marxism-Leninism, which is the common property of all exploited peoples and classes.

In the process of the struggle we synthesize our experiences and heighten our theoretical knowledge. It's different from first studying the theory of how to wage a war and then going out to do it.

We did it and now we synthesize. We think that, in the final analysis, this has been the experience of every socialist revolution.

**Q:** The largely illiterate masses played a vital role in the selection of Party members in the Party structuring campaign.

**MACHEL:** They did. Each candidate for Party membership was studied not only by the Party structures; each one was the subject of broad debate by the masses.

Decisions were made on a case-by-case basis, and today the masses feel that they have in each Party member a truly vanguard element. They are aware that they can denounce those who, by chance, are able to infiltrate

into the Party or who fail to follow the Party line.

The way in which this campaign was carried out greatly enhance the Party's prestige among the masses.

**Q:** Other countries building socialism have experienced serious abuse of power by Party members. How is FRELIMO trying to avoid this?

**MACHEL:** Our Party has had a great deal of experience with errors and abuses that arise in the exercise of power. During the course of our struggle for independence, we developed and institutionalized certain essential mechanisms.

Criticism is a constant with us, criticism in Party structures and criticism by the masses. People's vigilance is

extremely important and we continually search for ways to increase its use.

The leading bodies are in permanent contact with the masses and daily receive their opinions, criticisms, suggestions and proposals. The democratic mass organizations are also more and more involved with all sectors of the population, in their work places and residential neighborhoods.

Party militants have the right to contact all party organs, including the Central Committee, and they exercise this right. All citizens have the equal right to get in touch with the state administrative organs, including the head of state, and they exercise this right.

Letters to the editor in newspapers and magazines are also an important source of criticism and, thus, control of abuses.

Cases of Party and state leaders who were removed from their functions and publicly exposed for deviations from the political line or for improper conduct are well known.

In these circumstances, it seems to us that we can safely say that eventual abuses of power that arise will be rapidly detected and punished.

TO BE CONTINUED



Mozambican President SAMORA MACHEL.



# MURDER CHARGE DROPPED AGAINST HUEY—

CONTINUED FROM PAGE 7

quittal of my client. This case has gone far enough. It must be laid to rest."

Late on the afternoon of Thursday, September 20, the jury began its deliberations. On Tuesday afternoon, September 25, jury foreman James Kovarik told Judge McCullum that the jurors were hopelessly deadlocked in a vote of 11-1 for Huey's acquittal. McCullum then declared a mistrial.

Kovarik later told the press that the jury had taken three ballots, and that each time the vote was 11-1 for acquittal. Kovarik said of Benjamin Yuzon, the holdout, "He had his mind made up

before we began deliberations."

During jury selection in August, Yuzon said that he had immigrated to the U.S. from the Philippines because of the repressive government in that country.

Serra pointed out to Yuzon at the time the difference between criminal law in the U.S. and the Philippines. In America, a person charged with a crime is considered innocent until proved guilty. In the Philippines, the opposite is true.

The 11 jurors who voted

for acquittal congratulated Huey and his ecstatic attorneys. Later, when talking to the press, the jurors said there was simply not sufficient evidence to convict Huey.

At a hearing held two days later, Orloff, "with regret, but with my head held high," moved that all charges in the case be dismissed against Huey. Judge McCullum granted the motion.

Luke Ellis praised the judge for being fair. "We argued with you. You decided

some things in our favor and other things against us. But you were a fair judge," Ellis said.

McCullum said he would accept the compliment on behalf of all judges in the state of California. Then, in a reference to the Watergate scandal, the Black judge said:

"The American people have a different attitude today toward their government than they did in 1974. Our country was torn apart by events then. But the times are different now. We must all stand together." □

## Johnny Spain Seeks Reversal Of San Quentin 6 Conviction

CONTINUED FROM BACK PAGE

blank range by prison guards.

In convicting Johnny, the jury of 11 Whites and one Black accepted the prosecution's "gun-in-a-wig" theory. Under this absurd proposition, it was alleged that George Jackson received a small .9mm Astra automatic gun from his attorney, Stephen Bingham, and then smuggled the pistol back to the A.C. under an Afro Wig.

A veteran San Quentin admitting officer testified that it was totally impossible for Bingham to have brought a gun into the prison's visiting room either via a tape recorder or within the brief case he carried.

Defense attorneys argued that Paul Krasnes, one of the slain guards, brought the gun into the A.C. in his back pocket as part of the set-up to kill George. S.Q. 6 defendant Hugo Pinell testified that he actually saw, through a mirror arrangement he had constructed in his cell, Krasnes pull the gun on George.

Ex-police informant Tackwood testified that over the course of two years, he and 18 state and federal law enforcement officials, based primarily in Los Angeles, worked day and night toward the objectives of assassinating George Jackson and destroying the Black Panther Party.

Tackwood specifically identified all 18 people involved in the plot, clearly defining their roles and functions.

In addition, it was revealed after the close of the trial that Marin County District Attorney Bruce Bales was caught spying on the jury during the course of their deliberations.

Riordan's argument was

brief and concise but eloquent and unshakable. He insisted that Charles Garry and the other attorneys for the Six would have dismissed Fagan as a juror had they been allowed to question her when she told Judge Broderick she believed Geronimo Pratt killed her friend.

The judges questioned Riordan considerably about Fagan's bias against Johnny. Riordan agreed it cannot be proved that she was biased, but this is not the issue at stake. "The fact that she met with the judge without the presence of my client or his attorney is an irreversible judicial error," he said.

On the issue of chaining and shackling, Riordan said, "My client was inflicted with extreme pain. The shackling was a grave miscarriage of justice."

Carl Shapiro, attorney for Hugo Pinell, argued that his client's conviction should be overturned on two grounds: (1) Fagan's bias, which Shapiro said affected Pinell because he is Black and (2) Broderick's decision that all the San Quentin 6 defendants were on the same legal side.

Appearing for David Johnson, David Schwartz argued that Johnson's conviction be overturned for the following reasons:

(1) An illegal photographic identification made of Johnson by a San Quentin guard. The guard, whose name was Breckenridge, claimed that an inmate named Johnson choked him on August 21, 1971. Breckenridge was later given a picture with David Johnson's name under it and identified him as his attacker. Schwartz said a hearing should have been held to determine the legality of Breckenridge's identification, since photo

lineups are not supposed to include names.

(2) During the trial, Pinell was allowed to be his own lawyer. Schwartz said Pinell made a statement that could have prejudiced Johnson in the eyes of the jury. Pinell's role as defendant and lawyer were too conflicting and never should have been allowed, Schwartz insisted.

Presently imprisoned at Deuel Vocational Institute in Tracy, California, Johnny, 30, has been in California prisons since he was 17. Riordan states:

"As is so often true of American prisoners who are politically active, the original reason for Johnny's incarceration was not his political and social views...Yet, in a very real sense, the act (for which he was imprisoned) was in part a product of America's political and social system."

Johnny was born in 1949 to a White mother and a Black father in Mississippi. His mother's attempts to raise Johnny led to constant threats against her own life and that of her child.

When Johnny was six, his mother abandoned her efforts to keep him, sending him off to a Black family he had never met in Watts, Los Angeles' sprawling Black community.

A brilliant athlete and a bright student in school, Johnny's feelings of despair over the loss of his mother and family in Mississippi led him to the street gangs of Watts. In 1967, he was convicted of shooting a man to death during a robbery.

The Court of Appeal has 90 days, until December 25, within which to decide whether to reverse Johnny Spain's conviction. □



DAVID G. DUBOIS

## The White Left

CONTINUED FROM PAGE 11

after birth we who are of color are instructed in a host of ways to guard our sensitive souls against racist insult, racist injury and racist violence.

Over the years we build up layer upon layer of protective armor, until, in direct proportion to the extent of the violence done by racism, we appear to have become iron-hard, impenetrable, inflexible, unfeeling.

It is only an appearance for we can still cry, and sometimes laugh, and try, with all the others, to love. But, we are severely crippled by the burden of all that armor we carry around with us. Our efforts, the natural human effort to be whole, are constantly and repeatedly thwarted by racism and we know it. Exploding-contracting-exploding is a permanent condition of life for us.

TO BE CONTINUED



THE GEORGE JACKSON MURDER CASE — 1971-1979

# JOHNNY SPAIN SEEKS REVERSAL OF SAN QUENTIN 6 CONVICTION

(San Francisco, Calif.) — George Jackson was the acknowledged leader of the U.S. prison rights movement during the late 1960's and early 1970's. Black and poor inmates throughout the country loved and revered George. He was their spokesman, a highly effective spokesman.

George's brilliant leadership of the prison movement and his membership in the Black Panther Party led to his murder at San Quentin Prison on August 21, 1971.

Despite the claim of law enforcement officials that he was killed while trying to escape from San Quentin, George was the victim of a set-up — an elaborate conspiracy created and carried out by state and federal police agencies. Their ultimate goal was the destruction of the Black Panther Party.

Prison guards shot George to death as he lay wounded on the ground of the courtyard of San Quentin's notorious "segregation" unit known as the Adjustment Center (A.C.) After they killed him, they created the story that he had killed two guards while attempting to escape.

On August 12, 1976, Johnny Larry Spain, a BPP member and close comrade of George, was convicted by a Marin County jury of conspiring with George to escape and murdering the two guards. Johnny was sentenced to concurrent life prison terms.

A member of the San Quentin 6, the six Black and Brown inmates falsely charged and tried for the events of "Bloody Saturday," Johnny was the only one of the group convicted of murder. Three of the Six, Willie Tate, Luis Talamantez and Fleeta Drumgo, were acquitted and released and two, David Johnson and Hugo Pinell, were convicted of assault on guards.

On September 25, Dennis Riordan, deputy state public defender and Johnny's attorney, argued before three Judges of the state Court of Appeal that Johnny's conviction be overturned on two major grounds.

•The post trial discovery of two highly improper conferences held during the trial between the judge and one



(Left to right) JOHNNY SPAIN, late BPP Field Marshal GEORGE JACKSON, KAHLADRAHAN NAYAR, a representative of Amnesty International, and DENNIS RIORDAN, deputy California public defender and Johnny's attorney.

of the jurors. The juror revealed facts making her incompetent to sit on the San Quentin 6 case, but the judge kept hidden from the defense both the occurrence and the content of the conferences;

•The prejudicial shackling of the Six in open court during the entire 18 months of the trial, the longest criminal proceeding in California and U.S. history.

In the opening brief filed last year, Riordan emphasized the "blatant misconduct" of juror Patricia Fagan during the 18 months of the San Quentin 6 trial.

"We're very confident of winning this appeal," he said at the time. "We're not even asking for a liberal panel. All we're asking for is a group of judges who will be honest and read the law. If they do that, we're confident that we'll win."

The appellate courtroom in San Francisco was filled on September 25 with Black Panther Party members, their friends and supporters, and representatives of numerous community and political organizations. Judges Clinton White, Sidney Feinberg and James Scott listened to the oral arguments presented by Riordan, Carl Shapiro, David Schwartz and a prosecutor for the state attorney general's office.

Shapiro and Schwartz, attorneys for Hugo Pinell and David Johnson, respectively, also urged that their clients' convictions be overturned. Johnson was present for the hearing.

At Riordan's request, Amnesty International (A.I.), the

Nobel Peace Prize-winning, human rights organization, sent a representative, Kahladrahan Nayar, to the hearing. A.I. has been involved in such cases as the Charlotte 10, and it is hoped that the organization will soon make a public statement calling for Johnny's release.

During the San Quentin 6 trial, noted San Francisco attorney Charles Garry acted as chief defense counsel for Johnny. On September 24, 1976, over a month after the conclusion of the trial, Garry filed a motion for a new trial on the grounds that juror Fagan failed to disclose her extreme bias against the BPP during the initial jury selection in 1975.

In the motion, Garry said that he and his assistant, Pat Richartz, had interviewed Fagan at her home after the trial. She told them she believed her best friend had been murdered in "cold blood" on a tennis court in Los Angeles by Elmer "Geronimo" Pratt.

During his testimony in the trial, Black, ex-agent provocateur Louis Tackwood mentioned Pratt, a former BPP member in the Southern California Chapter. Fagan said that when she heard Pratt's name in court, she became "greatly upset."

Fagan told Garry and Richartz that she subsequently contacted San Quentin 6 trial judge Henry Broderick and told him that her friend had been murdered by Pratt. "She told Broderick she feared she might break down in court over the matter," Garry's motion said.

Fagan then informed her

fellow jurors of her feelings about Pratt and the circumstances of her friend's death. Neither Fagan, the jury or Broderick ever communicated the matter to Garry or any of the other defense attorneys.

The Judicial Code of Ethics and specific federal and state constitutional provisions forbid a trial judge to speak to a juror without defense counsel present.

In addition, Fagan's strong bias against the Black Panther Party violated Johnny's Sixth Amendment right under the U.S. Constitution to be tried by a fair and impartial jury.

When Garry questioned Fagan on June 12, 1975, during jury selection, she was asked if she associated the BPP with any form of violence. Her answer, a blatant lie, was "no."

In addition, Fagan admitted to Garry during the post trial interview that she believed people charged with a crime use psychiatric testimony only when they have no other defense.

During the trial, Garry presented a brilliantly structured defense of "impaired consciousness" for Johnny. Garry argued that as a result of rampant guard racism and "cesspool-like" conditions in San Quentin's Adjustment Center, Johnny suffered a temporary psychological experience similar to being "shell shocked" from the time his cell door opened on August 21, 1971, until he dove into a hedge of bushes in the A.C. courtyard where George was shot to death at point

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